

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re: CASE NO. 6:15-bk-01838-KSJ
JODELL M. ALTIER, CHAPTER 7
Debtor.
_____ /

GOSHEN MORTGAGE, LLC, ADV. PRO. NO.: 6:15-ap-00156-KSJ
Plaintiff,
v.
JODELL M. ALTIER,
Defendant.
_____ /

MOTION FOR FINAL DEFAULT JUDGMENT

Plaintiff, **GOSHEN MORTGAGE, LLC**, secured creditor in the above-captioned bankruptcy case, by and through its undersigned counsel, moves for entry of a final default judgment against **JODELL M. ALTIER** (“Defendant”), pursuant to *Federal Rule of Bankruptcy Procedure* 7055(b)(2), and states as follows:

1. On March 4, 2015 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.
2. On November, 19, 2015, the Plaintiff filed the instant action and properly served the Defendant with its Adversary Complaint against Defendant to deny Discharge pursuant to 11 U.S.C. §727 (the “Adversary Complaint”). (Adv. Doc. No. 1).
3. Defendant was properly served with a copy of the summons and complaint on November 23, 2015 as certified at (Adv. Doc. No. 4).

2. Following Defendant's failure to respond, on December 31, 2015, Plaintiff filed its Motion for Entry of Default and supporting affidavit requesting that the clerk enter a default pursuant to Federal Rule of Bankruptcy Procedure 7055(a). (Adv. Doc. No. 5).

3. On January 5, 2016, the Clerk entered a Default against the Defendant for failure to serve or file any paper as required by law (the "Default"). A copy of the Default is attached hereto as **Exhibit "A"**.

4. Pursuant to 11 U.S.C. §727, Plaintiff is entitled to a default final judgment on Counts I and II of the Adversary Complaint. Plaintiff's Affidavit in support of default judgment is attached hereto as **Exhibit "B"**.

5. Additionally, as required by Local Rule 7055-2, Plaintiff submits its Proposed order granting the Motion attached hereto as **Exhibit "C"** and Plaintiff's proposed Default Final Judgment, attached hereto as **Exhibit "D"**.

WHEREFORE, Plaintiff, Goshen Mortgage, LLC, respectfully prays the Court to enter a default final judgment on Counts I and II, and granting such other and further relief this Court deems just and necessary.

RESPECTFULLY SUBMITTED this 21st day of January 2016.

/s/ Justin M. Luna, Esq. _____

Justin M. Luna, Esq.

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Attorneys for the Goshen Mortgage, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of **MOTION FOR FINAL DEFAULT JUDGMENT** has been filed via CM/ECF and furnished by U.S. First Class, postage prepaid mail to: **Jodell M. Altier**, 2507 Roat Drive, Orlando, FL 32835 and via email at altiermech@yahoo.com; **Gene T Chambers, Trustee**, P.O. Box 533987, Orlando, FL 32853; and the U.S. Trustee, 400 W Washington Street, Suite 1100, Orlando, FL 32801 this 21st day of January 2016.

/s/ Justin M. Luna

Justin M. Luna, Esquire

[Default] [ENTRY OF DEFAULT]

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
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In re:

Case No. 6:15-bk-01838-KSJ

Chapter 7

Jodell M Altier

Debtor* /

Goshen Mortgage, LLC

Plaintiff*

vs.

Adv. Pro. No. 6:15-ap-00156-KSJ

Jodell M Altier

Defendant* /

ENTRY OF DEFAULT

It appears from the record that defendant Jodell M. Altier failed to plead or otherwise defend in this cause as required by law and therefore default is entered against the defendant as authorized by Fed. R. of Bankr. P. 7055.

Dated: January 5, 2016

FOR THE COURT
Lee Ann Bennett , Clerk of Court
George C. Young Federal Courthouse
400 West Washington Street
Suite 5100
Orlando, FL 32801
By: A. Bonilla,
Deputy Clerk

*All references to "Debtor" shall include and refer to both of the debtors in a case filed jointly by two individuals.

*All references to "Plaintiff" or "Defendant" shall include and refer to multiple plaintiffs or defendants.

Clerk's Office to Serve

EXHIBIT "A"

**UNITED STATES BANKRUPTCY COURT
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In re:

CASE NO. 6:15-bk-01838-KSJ

JODELL M. ALTIER,

CHAPTER 7

Debtor.

GOSHEN MORTGAGE, LLC,

ADV. PRO. NO.: 6:15-ap-00156-KSJ

Plaintiff,

v.

JODELL M. ALTIER,

Defendant.

AFFIDAVIT IN SUPPORT OF DEFAULT JUDGMENT

I, **JUSTIN M. LUNA**, am attorney of record for Goshen Mortgage, LLC, Plaintiff in the above captioned adversary proceeding, and as such, I am fully familiar with all the facts and circumstances of this case. I make this affirmation in support of Plaintiff's Motion for Judgment by Default against Defendant, Jodell M. Altier ("Defendant", "Debtor" or "Altier") and declare under penalty of perjury that the following facts are true and correct to the best of my knowledge and belief.

1. This action commenced on November 19, 2015, by the filing of Plaintiff's Complaint. On November 23, 2015, service of the summons and complaint, together with Administrative Order FLMB 2014-10 was effectuated in compliance with the Federal Rule of Bankruptcy Procedure.

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JODELL M. ALTIER, CHAPTER 7

Debtor.

GOSHEN MORTGAGE, LLC,

ADV. PRO. NO.: 6:15-ap-00156-KSJ

Plaintiff,

v.

JODELL M. ALTIER,

Defendant.

ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT FINAL JUDGMENT

THIS MATTER is before the Court upon Plaintiff's Motion for Judgment by Default (the "Motion") against Defendant, Jodell M. Altier. The Court has carefully reviewed the Motion, Plaintiff's proposed Default Final Judgment, the entire Court file and is otherwise fully advised in the premises.

Accordingly it is

ORDERED:

1. Plaintiff's Motion is **GRANTED**. The Court shall enter a separate final default judgment consistent with the Motion.

DONE AND ORDERED on

KAREN S. JENNEMANN
United States Bankruptcy Judge

Attorney Justin M. Luna is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
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In re:

CASE NO. 6:15-bk-01838-KSJ

JODELL M. ALTIER,

CHAPTER 7

Debtor.

GOSHEN MORTGAGE, LLC,

ADV. PRO. NO.: 6:15-ap-00156-KSJ

Plaintiff,

v.

JODELL M. ALTIER,

Defendant.

DEFAULT FINAL JUDGMENT

On November 19, 2015, Plaintiff filed a Complaint Objecting to Debtor's discharge pursuant to 11 U.S.C. § 727(a)(3) and (4) (the "Complaint"). Defendant, Jodell M. Altier ("Defendant") was duly served with process on November 24, 2015 (Doc. No. 4) in compliance with the Federal Rule of Bankruptcy Procedure. Defendant failed to file an appropriate Motion or responsive pleading within the time prescribed by law. A default was entered against Defendant on January 5, 2016 (Doc. No. 6). The Court having found Defendant in default, and Plaintiff, having moved for entry of default judgment on all counts of the Complaint against Defendant, makes the following findings of fact and conclusions of law.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. This is an action by the Plaintiff instituted under 11 U.S.C. §§ 727(a)(3) and (4).

2. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157(a), 157(b), and 1334(e), and the Order of the United States District Court for the Middle District of Florida referring all cases and proceedings under the Bankruptcy Code in this District to the Bankruptcy Court.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The well-pleaded allegations made in Plaintiff's Complaint (Doc. No. 1) are deemed to have been admitted by Defendant by virtue of her default. *Cotton v. Mass. Mut. Life Ins. Co.*, 402 F.3d 1267, 1277-78 (11th Cir. 2005).

5. Thus, the Court finds that Defendant has violated 11 U.S.C. §727(a), by (i) concealing recorded information, including books, documents, records, and papers, from which the Defendant's financial condition or business transactions might be ascertained; and (ii) knowingly and fraudulently making a false oath or account in or in connection with the bankruptcy case.

Accordingly it is

ORDERED:

1. Defendant's discharge pursuant to 11 U.S.C. §727 is **DENIED**.

DONE AND ORDERED on

KAREN S. JENNEMANN
United States Bankruptcy Judge

Attorney Justin M. Luna is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.